



City of Concord

City Council

Meeting Minutes - Draft

Monday, November 14, 2016

7:00 PM

City Council Chambers
37 Green Street
Concord, NH 03301

Non-public sessions in accordance with RSA 91-A:3, II (l) and RSA 91-A:3, II (e) to be held at 6:00 p.m.

1. Call to Order.

Mayor Bouley called the meeting to order at 7:00 p.m.

2. Invocation.

3. Pledge of Allegiance.

4. Roll Call.

Present: 15 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Byron Champlin, Councilor Mark Coen, Councilor Amanda Grady Sexton, Councilor Allan Herschlag, Councilor Fred Keach, Councilor Linda Kenison, Councilor Jennifer Kretovic, Councilor Gail Matson, Councilor Keith Nyhan, Councilor Dan St. Hilaire, Councilor Stephen Shurtleff, Councilor Brent Todd, and Councilor Robert Werner

5. Approval of the Meeting Minutes.

October 11, 2016 City Council Meeting Minutes.

Action: Councilor Nyhan moved approval of the October 11, 2016 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Friends of the City Auditorium Presentation.

Action: Betty Hoadley, resident, indicated that she has given the City Clerk informational packets for anyone wishing to look at. She stated that there has been \$25,000 raised before August 8th; the matching grant for \$15,000; the donations to match the grant for \$15,000; \$20,000 from the NH Arts Council; and as of yesterday, they had another \$2,750 - for a grand total of \$77,750. She pointed out that their vendor has discovered more seats that need to be repaired and because of this find, they may need to keep their fundraising drive going over the \$100,000 mark in order to take care of this work.

7. Agenda overview by the Mayor.

Action: Mayor Bouley presented a resolution in recognition of the services of Ian Butman.

****Consent Agenda Items****

Note: items listed as pulled from the consent agenda will be discussed at the end of the meeting.

Approval of the Consent Agenda

Action: Councilor Grady Sexton moved approval of the consent agenda with item 27 removed for discussion at the end of the meeting. The motion was duly seconded and passed with no dissenting votes.

Referral to City Administration

8. Communication from Councilor Herschlag requesting the City Manager determine if St Paul's School is in compliance with the Easement Agreement they signed with the City, specific to Langley Parkway, on February 9, 2010. (Easement deed submitted; not previously distributed)

Action: This communication was referred.

Items Tabled for December 12, 2016 Public Hearings

9. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-1, Stop Required Before Entering a Through Street; Schedule V, Stop Intersections and Schedule Va, Four-Way Stop Intersections; Warren Street and Rumford Street; together with report from the Traffic Engineer.

Action: This ordinance was moved to set for a public hearing.

10. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 9, Water; Article 9-1, Waterworks; Section 9-1-10, Operating Rules and Procedures, Fees and Charges; together with report from the Deputy City Manager - Development.

Action: This ordinance was moved to set for a public hearing.

11. Resolution appropriating the sum of \$375,000 in Traffic Impact Fee funds for the construction of the Exit 16/Mountain Road/Shawmut Street Roundabout

Improvement Project (CIP #24); together with report from the City Engineer.

Action: This resolution was moved to set for a public hearing.

12. Resolution authorizing and appropriating \$930,000 as a transfer to reserves; funding for this appropriation shall be entirely from Fiscal Year 2016 general fund assigned fund balance; together with report from the Deputy City Manager - Finance.

Action: This resolution was moved to set for a public hearing.

13. Resolution appropriating the sum of \$50,000 from Trust Fund Reserves as a supplemental appropriation to the City's General Fund for furniture/equipment purchases and replacement and education/training. Funding for these purposes shall be entirely from Trust Fund Reserve Accounts.

Action: This resolution was moved to set for a public hearing.

14. Resolution accepting and appropriating the sum of \$320,000 in grant funds from the NH Department of Environmental Services, including \$300,000 from the Aquatic Resource Mitigation Fund Grant and \$20,000 from the Local Source Water Protection Program Grant to be used toward the purchase of two parcels totaling 116-acres within the Penacook Lake Watershed, located off of Lakeview Drive and West Parish Road, CIP #352; together with report from the Acting Assistant City Planner.

Action: This resolution was moved to set for a public hearing.

15. Resolution appropriating the sum of \$20,000 from the Conservation Reserve Fund as a supplemental appropriation to the City's General Fund for the purposes of completing an update to Conservation Open Space Plan, funding for these purposes shall be entirely from Conservation Reserve Fund; together with report from the Conservation Commission.

Action: This resolution was moved to set for a public hearing.

16. Resolution accepting and appropriating the sum of \$12,190.65 from the sale of tax deeded property located at 8 Coral Street for management of the tax deeded property account; together with report from the Tax Collector/Treasurer.

Action: This resolution was moved to set for a public hearing.

From the City Manager

17. Positive Citizen Comments.

Action: This positive comments was received and filed.

Consent Reports

18. Diminimus gift and donations report from the Police Department requesting authorization to accept a gift of two refurbished, non-functioning, Ruger Mini 14 GB rifles, offered by Sturm, Ruger and Co., Inc., as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

19. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$2,050.00 as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

20. Diminimus report from the Assistant City Planner recommending the acceptance and appropriation of funds from a Certified Local Government Grant for the preparation of an application to place the Gas Holder building on the National Register of Historic Places as provided for under the pre-authorization grand by City Council.

Action: This consent report was approved.

21. Status Report on 2016-2017 City Council Priorities from the City Manager.

Action: This consent report was approved.

22. Report from the Deputy City Manager -Development in response to Mr. Jon Kelly's proposal to implement canine DNA testing in Concord.

Action: This consent report was approved.

23. Fiscal year to date financial statements report from the Deputy City Manager - Finance.

Action: This consent report was approved.

24. Annual Trust Reports for June 30, 2016 from the City Tax Collector/Treasurer.

Action: This consent report was approved.

25. Quarterly Current Use Change Tax Report from Director of Real Estate Assessments.

Action: This consent report was approved.

26. Report from the Police and Fire Chiefs on Drug Overdoses and Other Statistics.

Action: This consent report was approved.

27. Report from the Public Safety Board in follow-up to a City Council Referral regarding fireworks. (Pulled from consent by Councilor Herschlag)

Action: This item removed to the end of the agenda for discussion.

28. Report from the Public Safety Board in follow-up to a City Council Referral on Safety Inspections for Rental Properties.

Action: This consent report was approved.

29. Report from the Traffic Engineer on behalf of the Traffic Operations Committee in response to a referral from Councilor Kenison regarding a constituent request to consider reversing the one-way travel direction on Federal Street.

Action: This consent report was approved.

30. Pay-As-You-Throw Semi-Annual Status Report from the General Services Director.

Action: This consent report was approved.

31. Report from the Parks and Recreation Director on the New Multi-Purpose Building/Skate House at White Park.

Action: This consent report was approved.

32. Report from the Director of Human Resources and Labor Relations regarding the Administrative Supervisor position in the FY 2017 budget.

Action: This consent report was approved.

33. Report from the City Solicitor in follow-up to a City Council referral regarding the use of cell phones and personal computing devices by members of City Council at Council meetings.

Action: This consent report was approved.

Consent Resolutions

34. Resolution in recognition of the services of Jackie Whatmough. (Not previously distributed)

Action: This consent resolution was approved.

35. Resolution to establish a new community improvement reserve fund; together with report from the Deputy City Manager - Finance.

Action: This consent resolution was approved.

36. Resolution repurposing \$20,000 from the electrical Distribution System Improvements subproject to the Underground Storage Tank Replacement subproject, CIP#466; together with report from the General Services Director.

Action: This consent resolution was approved.

37. Resolution authorizing the City Manager to enter into a revised Purchase and Sales Agreement with Ryan W. Kibbee and Kate W. Ackerson for the sale of a +/- 1,200 square foot city lot identified as MBL 52/7/14 to resolve an encroachment issue; together with report from the Deputy City Manager - Development.

Action: This consent resolution was approved.

Consent Communications

38. Street closure request from the Penacook Village Association for the annual Penacook Christmas Tree Lighting Ceremony to be held on Wednesday, November 30, 2016.

Action: This consent communication was approved.

Appointments

39. Mayor Bouley's proposed appointment to the Planning Board. David Allyn Fox

Action: This appointment was approved.

From the Mayor

End of Consent Agenda

Public Hearings

- 40A. Resolution rescinding and de-authorizing the sum of \$1,440,000 of matched Highway Safety Improvement Program (HSIP) funds from the NH Department of Transportation as no longer necessary, and appropriating the sum of \$1,250,000 and authorizing the issuance of bonds and notes up to \$1,250,000 for the Loudon Road Corridor Improvements Project (CIP #19); together with report from the City Engineer.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing.

Public Testimony

David Sky, resident, urged Council to vote against the proposed resolution explaining that the criteria is that there is an expectation that the improvements will be good for twenty years. He does not believe that this design or anything within the physical dimensions at Loudon Road that exists today can last twenty years. He noted that he believes that the engineer has a plan to further widen the road by purchasing property and that their plan to implement a wider road is something on a ten year horizon. He doesn't feel that Council can vote in good faith with a twenty year time horizon.

Councilor Shurtleff inquired whether the city is purchasing land to widen Loudon Road.

Mr. Baia explained that the city has a policy: whenever development comes along within this corridor, they acquire property as part of that for future widening. This has been ongoing for several years.

Angela Green, resident, indicated that she works within Prescott Park on Loudon Road and has views of the near misses that occur everyday. She noted her concern with the amount of pedestrians and cyclists that use Loudon Road. She indicated that she has concerns with the current crosswalks noting that they are not close enough together and there is no median strip to step on. She pointed out that there are too many curb cuts on this road. She doesn't feel that the public knows about this change of plan. Ms. Green feels that there was a lot of education around a three lane proposal and a lot of opportunity for input but feels that there hasn't been adequate public input into this decision to spend Concord dollars on a repaving project.

Councilor Herschlag asked Ms. Green if she has any comments on whether she feels that the three lanes would be successful. Ms. Green feels that three lanes would be safer because there would be turning lanes. Councilor Herschlag noted that one of the concerns that he had with that third lane, turning lane, is that there may be overlapping with cars turning therefore creating a traffic jam. He stated that

it's not that he and fellow Councilors doesn't share her concerns but they have a concern with how they move forward.

Referencing Ms. Green being an HR professional, Councilor Champlin asked Ms. Green to talk about the next generation of workers and what they are looking for. Ms. Green noted that if they have an environment that's not friendly to people who want to be able to use alternate forms of transportation, this would leave Concord at a disadvantage in terms of being attractive to young families. Councilor Champlin noted that the next generation of workers are not necessarily looking at bicycling as recreational but rather as a mode of transportation.

Councilor Coen pointed out that there was a public meeting and a Council public hearing in regards to Loudon Road.

Mayor Bouley pointed out that there are several curb cuts within the Prescott Park area and asked if Ms. Green's employer would ever consider reducing the number of curb cuts. Ms. Green responded that she doesn't believe it's their call because there is a condo association in this area.

Robert Baker, resident, indicated that he rides his bike for transportation purposes. He feels that the city needs to give people the opportunity for alternative transportation. He pointed out the pedestrian that was struck on Loudon Road on Halloween evening. He feels that the three lane configuration will work and asked that Council revisit what was decided back in September and think about what is important for the future of the Concord community.

Roy Schweiker, resident, wonders if they need to revisit the pedestrian crossing to see if they are in the correct locations and see if they can be synchronized with the other lights.

Melissa Bernardin, resident, stated that she is disappointed in the vote to cancel the four to three lane conversion for Loudon Road. She appreciates all the diligence the Council members do in listening to their constituents. She asked the Council and the various committees to consider alternatives to accommodate the needs of pedestrians, cyclists and workers; consider more frequent bus service; consider whether there could be a Loudon Road bypass.

There being no further public testimony, the Mayor closed the hearing.

40B. Resolution accepting and appropriating the sum of \$74,686.30 in grant funding

from the New Hampshire Department of Safety - Law Enforcement Opioid Abuse Reduction Initiative, funds designated for conducting illegal drug related investigations; together with report from the Police Department.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the hearing.

- 40C. Resolution accepting and appropriating the sum of \$26,016.30 in grant funds from the New Hampshire Highway Safety Agency, funds designated for Sustained Traffic Safety Enforcement Patrols (STEP); together with report from the Police Department.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the hearing.

- 40D. Resolution accepting and appropriating the sum of \$21,577.50 in grant funds from the New Hampshire Highway Safety Agency, funds designated for DWI / Impaired Driver Patrols; together with report from the Police Department.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the hearing.

- 40E. Resolution accepting and appropriating the sum of \$13,500 in grant funds from the New Hampshire Highway Safety Agency, funds designated for the purchase of mobile scanning and printing equipment for Police Department vehicles; together with report from the Police Department.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the hearing.

- 40F. Resolution accepting and appropriating the sum of \$10,000 in grant funds from the

New Hampshire Highway Safety Agency, funds designated for conducting Distracted Driving Enforcement Patrols; together with report from the Police Department.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the hearing.

- 40G. Resolution accepting and appropriating the sum of \$20,596 from the New Hampshire Charitable Foundation to support projects that enhance the special character and vitality of Concord; together with report from the Deputy City Manager - Finance.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the hearing.

- 40H. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index, Community Development Specialist; together with report from the Deputy City Manager - Development.

Action: Deputy City Manager - Development Carlos Baia provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the hearing.

Public Hearing Action

41. Resolution rescinding and de-authorizing the sum of \$1,440,000 of matched Highway Safety Improvement Program (HSIP) funds from the NH Department of Transportation as no longer necessary, and appropriating the sum of \$1,250,000 and authorizing the issuance of bonds and notes up to \$1,250,000 for the Loudon Road Corridor Improvements Project (CIP #19); together with report from the City Engineer.

Action: Councilor Bouchard moved approval. The motion was duly seconded.

Councilor Kenison asked whether it was a foregone conclusion that they have given up the opportunity to take another look at the three lane option. City Engineer Ed Roberge responded that the three lane project still qualifies under the HSIP program; if the Council were to reconsider, it's simply a communication back to the Department of Transportation saying that the project is either on or off. He is not sure where it would fall in terms of funding since they are now out of the fiscal year 2016/2017 budget.

Councilor Kretovic noted that she does not see safety improvements in the direction they are moving forward and therefore doesn't want to accept the HSIP funds.

Councilor Champlin has concerns with the ongoing safety issues on Loudon Road and also has concerns relative to Ms. Green's testimony in regards to making decisions that are not necessarily making Concord a more attractive place for the next generation of workers. He noted that he would like to go back to look at the three lane configuration again. Barring this, he would like to look at more safety oriented changes that they can make if they are going to maintain a four lane road.

Councilor Herschlag noted that without addressing the curb cuts sufficiently, whether there are two or four lanes, there is still a dangerous situation. He feels there is a concern with stacking up in the center turn lane because of the amount of curb cuts. He stated that one of the things that he would like to have seen is what a long term solution would look like. He hoped that Engineering could show the Council what some of those long term solutions would look like, how long would it be anticipated to acquire the necessary right of ways, and what the anticipated cost of such a design would be.

Councilor Bouchard recalls that when they asked Engineering to go back to the DOT, they asked them to look at safety improvements if they kept the four lane configuration. She feels that they need to repave the road, move forward with a limited amount of curb cuts, and address crosswalk safety. She noted that she feels that they need to move forward with the plan that is before the Council.

Councilor Nyhan noted that it was his understanding that, as part of the staff looking at this project, the crosswalks and the timing were going to be addressed.

City Engineer Ed Roberge stated that they are looking at crosswalk locations to make sure they are optimized and also looking at the lighting levels at all those

locations. He explained that this is part of the evolution of this new plan; try to make it as safe as possible within the limits that they have.

Councilor Kenison indicated that why she will be voting against the motion is that she cannot support paving which she believes is going to decrease the safety of the road. She feels that vehicles will be moving at faster rates of speed.

Councilor Werner noted that he is in support of the three lane option and will be voting against the motion on this item.

Councilor Shurtleff noted he is concerned with adding impact in the surrounding neighborhoods so he will, reluctantly, be voting in favor of the motion.

Councilor Todd noted that he wants people to know that by voting against the funding this evening does not, in any way, mean that he is against providing for the needs of the Heights. He feels that the current project doesn't do nearly enough for the people of the Heights and feels that they deserve more. He stated that in going through the checklists of items that have been discussed of future concerns - they have all those now. He pointed out that the one factor in there that they don't have is safety. He feels that if there is a chance to provide a safer Loudon Road, they need to pursue it for safety sake.

Councilor Herschlag stated that he would like to see a long term solution before expending \$1.2 million on a proposal in which they have no idea how long it will be effective or will need to be revisited. He asked how much funding they have in impact fees that will go towards this project. Mr. Roberge responded that the original appropriation, which was the match dollars to the grant fund, included some transportation impact fees. He stated that they would need to go back and look at those other funding alternatives to find what they have for traffic impact fees within the district. Overall, just having recently looked at it, he indicated that it's somewhere in the neighborhood of a little over \$400,000 in traffic impact fees in all four districts. He doesn't recall what the total amount was for the district three area.

Councilor Herschlag doesn't see any harm in delaying this item for a month or two so that staff could come back to see if there are some other long term alternatives. He noted that he will be voting against this item this evening.

Councilor St. Hilaire indicated that he has heard from so many individuals in

regards to Loudon Road and most had indicated that they wanted Council to leave Loudon Road the way it is with the four lane configuration. He noted that what they don't have is the safety that they would all like but they also don't have the capacity. He stated that if they decrease capacity, the traffic has to go somewhere which will be through neighborhoods. He pointed out that all they are looking for is for the road be paved; that they vote on this this evening because residents have waited for a long time. He stated that if they delay this once again, there will be backlash and Councilors will be hearing from a lot of constituents. He urged his fellow Council members not to delay this any further.

Councilor Bouchard stated that whatever they do to move forward, they need to pave that road. She indicated that maybe the Transportation Policy Advisory Committee could look at the connectivity and other routes that bicyclists could use. She understands other's concerns but this is where they are at now, this is what the people have asked for, this is what the business owners have asked for. She hopes that those Councilors that are against this will reconsider and vote for paving the road and the safety elements that can be instilled on this road.

Following brief Council discussion, Councilor Bouchard's motion passed 10 to 5 on a roll call vote with Councilors Keach, Kretovic, Matson, Nyhan, St. Hilaire, Shurtleff, Bouchard, Mayor Bouley, Councilors Coen and Grady Sexton voted yes. Councilors Kenison, Todd, Werner, Champlin and Herschlag voted no.

42. Resolution accepting and appropriating the sum of \$74,686.30 in grant funding from the New Hampshire Department of Safety - Law Enforcement Opioid Abuse Reduction Initiative, funds designated for conducting illegal drug related investigations; together with report from the Police Department.

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

43. Resolution accepting and appropriating the sum of \$26,016.30 in grant funds from the New Hampshire Highway Safety Agency, funds designated for Sustained Traffic Safety Enforcement Patrols (STEP); together with report from the Police Department.

Action: Councilor Champlin moved approval. The motion was duly seconded and passed with no dissenting votes.

44. Resolution accepting and appropriating the sum of \$21,577.50 in grant funds from the New Hampshire Highway Safety Agency, funds designated for DWI / Impaired

Driver Patrols; together with report from the Police Department.

Action: Councilor St. Hilaire moved approval. The motion was duly seconded and passed with no dissenting votes.

45. Resolution accepting and appropriating the sum of \$13,500 in grant funds from the New Hampshire Highway Safety Agency, funds designated for the purchase of mobile scanning and printing equipment for Police Department vehicles; together with report from the Police Department.

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

46. Resolution accepting and appropriating the sum of \$10,000 in grant funds from the New Hampshire Highway Safety Agency, funds designated for conducting Distracted Driving Enforcement Patrols; together with report from the Police Department.

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

47. Resolution accepting and appropriating the sum of \$20,596 from the New Hampshire Charitable Foundation to support projects that enhance the special character and vitality of Concord; together with report from the Deputy City Manager - Finance.

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

48. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index, Community Development Specialist; together with report from the Deputy City Manager - Development.

Action: Councilor Bouchard moved approval. The motion was duly seconded and passed with no dissenting votes.

Reports

New Business

Unfinished Business

49. Report from the Rules Committee recommending revisions to the current Rules of the City Council. (Item tabled, no action taken, at the June 8, 2015 City Council

meeting).

Action: This item remains on the table.

50. Supplemental report from the City Engineer outlining lighting alternatives for the Downtown Complete Streets Improvement Project (CIP460).

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Todd announced the 11th tree lighting celebration in downtown Penacook being held on November 30th at Boudreau Square on Village Street. The tree lighting will begin at 6:00 p.m. with refreshments and carolers.

Councilor Kretovic announced that on Friday, November 18th, from 6:00 p.m. to 9:00 p.m. at the Grappone Center there will be a Mr. Concord event to benefit the Crisis Center of Central NH.

Councilor Champlin acknowledged the work done by the preservation team at Old North Cemetery this past season.

Councilor Coen indicated that the Conservation Commission is seeking public input on open space and natural resources in the city. They have developed an open space survey located on the city's website at concordnh.gov.

Mayor Bouley announced that the Christmas Parade on Loudon Road is taking place on Saturday, November 19th at 9:30 a.m. He also indicated that the Christmas tree lighting ceremony in downtown will take place on Friday, November 25th at 4:00 p.m. The tree will be lit at 6:00 p.m.

Mayor Bouley thanked the City Clerk and her staff for a well run election.

City Clerk Janice Bonenfant thanked the Mayor for the recognition and added that it's a citywide team effort that pitches in.

Mayor Bouley indicated that he is rebanding the Gully Hill Conservation Easement Committee. He noted that it will include the same membership as previously with members comprising of Councilors Bouchard, Chair, Keach, Kretovic and St. Hilaire. He indicated that former Councilor McClure was a member also and appointed Councilor Coen to fill this vacant spot.

Comments, Requests by the City Manager

Deputy City Manager-Development Baia announced that they will be celebrating the official ceremony to open the Sewalls Falls Bridge tomorrow at 10:00 a.m.

Consideration of items pulled from the consent agenda for discussion

- *Item 27 was pulled from the consent agenda for discussion.*

27. Report from the Public Safety Board in follow-up to a City Council Referral regarding fireworks. (Pulled from consent by Councilor Herschlag)

Action: Councilor Herschlag pointed out that this was originally referred to the Public Safety Board after the Council held a public hearing at their April 13, 2015 meeting. Prior to discussion of this item at that meeting and the taking of public testimony, he noted that the Mayor had announced that he had a conflict and was recusing himself. He indicated that, at the recent Public Safety Board's October 17, 2016 meeting, the Mayor spoke to the board regarding this issue and stated that it appears that the Mayor continues to have a conflict of interest regarding this issue because a member of his firm is listed as a lobbyist for Atlas Advanced Pyrotechnics. Councilor Herschlag stated that the city's Code of Ethics requires that an elected official recuse themselves from speaking on any issue before any City of Concord public body if they have a conflict of interest, not just the City Council. He added that he feels that it's not known whether the Mayor's comments to the Safety Board did or did not have any impact on their recommendation to the City Council. Councilor Herschlag noted that he understands that there is no requirement for the board to rehear or reconsider this issues however, by having the board revisit this matter, he feels it can help to restore the public's confidence that a statement from an elected official who appears to have a conflict of interest did not influence the board's recommendation.

Councilor Herschlag moved to cite Council Rule 6B and ask the Mayor to recuse himself from this issue.

Mayor Bouley indicated that he had adding that if the PSAB minutes were accurately reflected, they would show that he stated to the board his conflict. He noted that he was asked an informational question; he did not state his opinion one way or another.

Councilor Herschlag indicated that he had a second motion to make. He moved to request that this item be sent back to the Public Safety Board with two conditions:

they revisit the issue at a future meeting; that, in addition to posting notice of this meeting as legally required, the Safety Board notify the members of the public who testified before the Council on April 13, 2015 and at the Safety Board's meeting on April 27, 2015.

Mayor Bouley indicated that he has stated each time that he has a conflict. He pointed out that he was going to recuse himself this evening but the item had been pulled so he was going to recuse himself when this item was being discussed. He asked what Councilor Herschlag was looking for the Public Safety Board to do in regards to his second motion.

Councilor Herschlag responded that he is looking for them to invite the members of the public who spoke about this at previous meetings back so they have an opportunity to testify before the board once again. He stated that, within the draft minutes, there is no indication that the Mayor recused himself.

Mayor Bouley indicated that he stated that he had a conflict and then he answered the question. He noted that there was no vote to recuse himself from.

The motion to send this item back to the Public Safety Board with two conditions: they revisit the issue at a future meeting; that, in addition to posting notice of this meeting as legally required, the Safety Board notify the members of the public who testified before the Council on April 13, 2015 and at the Safety Board's meeting on April 27, 2015 was duly seconded. The motion failed with a show of hands vote. The Mayor recused himself from voting on this item.

Councilor St. Hilaire moved acceptance of the report. The motion was duly seconded.

Councilor Keach indicated that they have discussed this issue at several of the Public Safety Board's meetings and feels that it needs to move forward.

Councilor Grady Sexton agreed with Councilor Keach stating that the board revisited this item at three meetings and the board feels strongly that they don't want to move forward with this.

Councilor St. Hilaire's motion passed with one dissenting vote by Councilor Herschlag. The Mayor recused himself from voting on this item.

Consideration of Suspense Items

Adjournment

The time being 8:40 p.m., Councilor Keach moved to adjourn the meeting. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*